

REMARKS

Claims 36-70 are pending in the application. Claims 36, 49 and 61 are independent claims. Claims 36-70 stand rejected. Applicants amend 36, 38-44, 49-61, and 63-68. Further review and consideration is respectfully requested in view of the amendments and the following remarks.

Interview Summary

On March 24, 2008 the undersigned conducted an interview with the Examiner. During the interview the undersigned discussed claim1. No agreement was reached.

Claim Objections

Claims 50-60 are objected to by the Examiner. Applicants have amended claims 50-60. Accordingly, Applicants respectfully submit that the objections are overcome.

Claim Rejections – 35 USC § 101

Claims 49-70 stand rejected under 35 U.S.C. § 101 as directed towards non-statutory subject matter. With respect to claims 49-60, Applicants have amended these claims and respectfully submit that the rejections are overcome.

With respect to claims 61-70 Applicants respectfully submit that the claims are directed towards statutory subject matter, however in order to expedite prosecution Applicants have amended these claims. Accordingly, Applicants respectfully request reconsideration of the rejections of claims 61-70. Applicants however reserve the right to prosecute previously presented claims 61-70 in the future and submit that the Examiner's analysis with respect to the 'means for' limitations is contrary to law and the specification provides adequate support for the claimed subject matter. In the Office Action the Examiner stated that the 'means for' limitations are non-statutory because "the instant specification does not define ... any hardware structure for performing the claimed limitations." (Office Action at p. 3). Applicants submit that the Examiner is not interpreting the 'means for' limitations in accordance with the law. In order to interpret a means plus function limitation, first the function must first be

identified and then the corresponding structure that performs the function must be found in the specification. *See, e.g., JVV Enters. v. Interact Accessories, Inc.*, 424 F.3d 1324 (Fed. Cir. 2005). Applicants respectfully submit that in at least one embodiment the structure that performs the functions in previously presented claims 61-70 can be a processor of a computer that includes memory such as the computer described in FIG. 1. This interpretation is consistent with the law. For example in the case *WMS Gaming Inc. v. International Game Tech.*, 184 F.3d 1339 (Fed. Cir. 1999) the claim in this case included a limitation “means for assigning a plurality of numbers representing said angular positions of said reel.” *WMS Gaming Inc.*, 184 F.3d 1339 at 1347. In this case, the specification disclosed a computer system that included memory and an algorithm for assigning a plurality of numbers representing said angular positions of said reel. The court held that the structure for performing the function was a microprocessor programmed carry out an algorithm embodied in software instructions. *Id.* at 1348. (Emphasis added). Similarly, previously presented claims 61-70 recite means plus function limitations where the structure in an embodiment can be a processor programmed to process an algorithm embodied in a software program. Applicants respectfully submit that since the structure for a means plus function limitation can be a processor programmed to perform functions that are defined in software, previously presented claims 61-70 were directed towards statutory subject matter.

Claim Rejections – 35 USC § 102

Claims 36-42, 48-55, and 61-67 stand rejected under 35 U.S.C. 102(b) over U.S. Patent No. 5,905,987 to Shutt. Applicants traverse these rejections.

Regarding claim 36, Applicants have amended claim 36 to further clarify Applicants techniques. Shutt describes a database storage software that includes the capability to store an object's state. The object's state can then be recalled at a later time. Applicants have reviewed Shutt and submit that there is no teaching or suggestion of an operating system that comprises a database management program integrated with a file system. The claimed configuration overcomes the limitations of a traditional file system by providing a way for the operating system to understand and interpret the information in the file system. This teaching

DOCKET NO.: MSFT-1750/302726.01
Application No.: 10/646,940
Office Action Dated: December 27, 2007

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is absent from the art of record. Accordingly, for at least this reason Applicants respectfully request reconsideration of the rejection of claim 36.

Independent claims 49 and 61 recite similar elements to those in claim 36 and patentably define over the art of record for at least similar reasons as claim 36. Accordingly, Applicants respectfully request reconsideration of the rejections of claims 49 and 61.

Dependent claims 37-48, 50-60, and 62-70 depend directly or indirectly from independent claims 26, 49, or 61 and patentably define over the art of record for at least the reason describe above with respect to claim 36. Accordingly, Applicants respectfully request reconsideration of the rejections of claims 37-48, 50-60, and 62-70.

CONCLUSION

Applicants request the Examiner reconsider the rejections and issue a Notice of Allowance of all the claims.

Date: March 27, 2008

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